IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. Application No. 671 of 2001
(Old No. 1400 of 1999)

Mohan Singh S/o Sri Hardeo Singh
R/o Nehru Market, Dagpaththar
District Dehradun ……..Applicant

Versus

1. State
2. Senior Superintendent of Police
   Dehradun.
3. Inspector Kotwali
   P.S. Rishikesh, Dehradun.
4. Sri V.K. Gupta Brach Manager
   State Bank of India
   Lakshman Jhula Road
   District Dehradun.
5. Civil Judge (Junior Division)
   Rishikesh
   District Dehradun. …….Opposite Parties.

Sri S.S. Yadav, learned counsel for the applicant.
Sri Sandeep Tandon & Sri S.K. Jain learned counsel for the opposite party No.4.
Sri H.C. Pande learned counsel for the State.

Hon'ble B.C. Kandpal, J.

This is the criminal misc. application under Section 482 Cr.P.C. filed by Mohan Singh for quashing the proceedings the chargesheet dated 10.04.1997 in case crime No. 227 of 1996 which is pending in the court of Civil Judge (Junior Division) Rishikesh, District Dehradun in case No. 1031 of 1998 State Vs. Bijendra & Mohan Singh.

Heard Sri S.S. Yadav learned counsel for the applicant, Sri Sandeep Tandon learned counsel for the opposite party No. 4, Sri H.C. Pande learned counsel for the State and perused the record.

The record shows that the chargesheet has been filed against the petitioner which relate to the fraud committed by him with respect to Bank A/c No. 39/14557 in the name of Sri Dharmendra Kumar which was opened in the branch and thereafter, the fraud was done by withdrawing the huge amount from the account.

Learned counsel for the petitioner has invited my attention towards several documents filed along with this petition and has raised an argument that from the documents filed by the petitioner in this petition, no case is made out against the petitioner under Sections 420, 467, 468, 471 of I.P.C. It has also been submitted that the petitioner is not involved in any manner for committing fraud, which is alleged to have been done in respect of Bank A/c No. 39/14557.

Learned counsel for the opposite party No.4 has on the other hand, argued that there is sufficient evidence available against the petitioner which clearly establishes the guilt of the accused/petitioner.

However, the contention raised by the learned counsel for the petitioner pertains to the factual aspect of the case and the same can be decided only after the evidence of both the sides are adduced before the trial court. No ground for quashing the chargesheet is made out at this stage as I do not find any serious miscarriage of justice and abuse of process or court.

It is open for the petitioner to place his submission before the trial court at the time of framing of charge as to prima facie case is made out against him or not. But I, while exercising the jurisdiction under Section 482 Cr.P.C., I am not suppose to assess the entire evidence which is subject matter for analyses by the trial court.

I do not find any force in this petition under Section 482 Cr.P.C. and the same is liable to be dismissed.

Accordingly the petition is dismissed.

However, in case, if the petitioner appears before the court below for obtaining the bail, his bail shall be disposed of as early as possible.

(B.C. Kandpal, J.)

06.04.2005
ASWAL